

YEAR

CALIFORNIA FORM

2004 Manufacturers' Investment Credit**3535**

Attach to your California tax return.

Social security, California corporation, or
entity identification (ID) number

Name(s) as shown on return

FEIN

Secretary of State file number

Qualified Taxpayer's SIC Code Activity. **Caution:** See instructions. _____**Part I Credit Carryover Used.** See instructions before completing.

- 1** Enter the total credit carryover from prior year(s) from 2004 FTB 3535, Part II, line 9, column (b) or Part II, line 19, column (b) . _____
- 2** Enter the amount of credit carryover deduction claimed on 2004 tax return from FTB 3535, Part II, line 9, column (c) or Part II, line 19, column (c). **Caution:** Your credit carryover may be limited ■ _____
- 3** Enter the amount of carryover available to future years (less any expired credits). Subtract line 2 from line 1 _____
Amount should match Part II line 9(d) or Part II line 19(d).

Part II Credit Use and Carryover Periods. See instructions.**8-Year Carryover Period**

(a) Year	(b) Prior year(s) carryover amount	(c) Amount used in 2004	(d) Credit carryover to future years
1 1996			
2 1997			
3 1998			
4 1999			
5 2000			
6 2001			
7 2002			
8 2003			
9 Total			

10-Year Carryover Period (Small businesses only)

(a) Year	(b) Prior year(s) carryover amount	(c) Amount used in 2004	(d) Credit carryover to future years
10 1994 & 1995			
11 1996			
12 1997			
13 1998			
14 1999			
15 2000			
16 2001			
17 2002			
18 2003			
19 Total			

Part III Credit Recapture. See instructions.

(a) Property description		(b) Recapture code	(c) Credit recapture
1			
2 Total recapture amount. Add the amounts in column (c). See instructions			2

Instructions for Form FTB 3535

Manufacturers' Investment Credit

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2001**, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2001. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information regarding California and federal law, please visit our Website at www.ftb.ca.gov and select "Law and Legislation." Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

Note, the instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

Repeal of the Manufacturers' Investment Credit

The Manufacturers' Investment Credit has been repealed by its own terms as of January 1, 2004. **No new** MIC can be generated, however a credit carryover is allowed for credit generated on or after January 1, 1994 and before January 1, 2004.

Caution

Although costs to construct or acquire property may have been paid or incurred during 2003 or prior years, if the property is not placed in service before January 1, 2004, none of those costs are qualified costs for the credit.

A Purpose

Use FTB 3535 to claim a Manufacturers' Investment Credit (MIC) carryover.

For purposes of these instructions, the term "partnerships" includes Limited Liability Companies classified as partnerships.

Standard Industrial Classification (SIC) Codes

You are required to use the SIC code of the establishment that qualifies you to take this credit carryover on FTB 3535, Side 1. If your business has more than one establishment, and if more than one of the establishments qualifies you to take this credit, enter the SIC code that best represents your primary qualifying establishment.

For taxable years beginning on January 1, 2004, the list of Standard Industrial Classification (SIC) codes previously provided in FTB 3535 have been deleted. Use the same SIC, used on FTB 3535, Manufacturers' Investment Credit in prior years.

Credit Code Number

You must use credit code number 199 to claim the MIC carryovers on your tax return. Using the incorrect code number may cause a delay in allowing the credit.

For more information on the MIC, get FTB 1113, California Manufacturers' Investment Credit Frequently Asked Questions (see page 5, Where to get Tax Forms and Publications). Also see the Cal. Code of Regs., tit. 18 sections 17053.49-0 through 17053.49-11 for Personal Income Tax Law and Sections 23649-0 through 23649-11 for Corporation Tax Law.

B Limitations and Special Rules

The MIC is not refundable.

If a taxpayer owns an interest in a disregarded business entity, the amount of the credit that can be utilized is limited to the difference between the taxpayer's regular tax computed with the income of the disregarded entity,

and the taxpayer's regular tax computed without the income of the disregarded entity. For more information on disregarded business entities, get Form 568, Limited Liability Company Tax Booklet.

This credit can reduce regular tax below tentative minimum tax (TMT). However, it cannot reduce the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries).

This credit cannot reduce the minimum franchise tax (corporations and S corporations), annual tax (partnerships and QSub), built-in gains tax (S corporations), or excess net passive income tax (S corporations).

The cost basis of the qualified property for depreciation purposes is not reduced by the amount of the credit.

C Credit Recapture

If within one year from the date the property is first placed in service in California, the qualified property for which the MIC was allowed is:

- Removed from California;
- Used primarily for a nonqualifying purpose;
- Disposed of to an unrelated party as defined in IRC Sections 267, 318, or 707; **or**
- Acquired by a lessee (or acquired by a party related to the lessee) that is being leased by such lessee;

then the credit must be recaptured. The credit is recaptured by adding the amount of credit previously claimed to the qualified taxpayer's tax liability for the taxable year in which the recapture event occurs. Any MIC carryover should first be reduced to the full extent before adding any recaptured credit to the current year tax liability. Any recapture amount remaining after the reduction of the carryover should be added to tax.

Example: In May 2004, within one year of placing qualified property in service in California, K disposes of qualified property for which a \$150 MIC was previously allowed. K is required to recapture the entire \$150 MIC. Assume K had \$100 in available MIC carryovers. K would reduce its available MIC carryovers to zero and would then increase its tax liability for 2004 by \$50 (\$150 recapture amount less \$100 used to reduce available MIC carryovers).

If the recapture event occurs in the same taxable year in which the qualified property is first placed in service, then no MIC can be claimed for that property.

For taxable years beginning on or after January 1, 2002, taxpayers making the federal election to treat a stock purchase as an asset purchase will not trigger a recapture of the Manufacturers' Investment Credit.

Specific Instructions

Qualified Taxpayer's SIC Code Activity — Enter the SIC code of the establishment that qualifies you to take this credit. If your enterprise has more than one establishment, and if more than one of the establishments qualifies you to take this credit, enter the SIC code that best represents the primary qualifying establishment.

Do not enter the PBA code from your state or federal tax return. PBA codes are based on the NAICS and they are not the same as SIC codes.

Specific Line Instructions

Part I — Credit Carryover Used

Line 1 — Enter the total credit carryover from prior year(s) from 2004 FTB 3535, Part II, line 9, column (b) or Part II, line 19, column (b).

Line 2 – Enter the amount of credit carryover deduction claimed on 2004 tax return from FTB 3535, Part II, line 9, column (c) or Part II, line 19, column (c).

Caution: Your credit may be limited.

Line 3 – Enter the amount of carryover available to future years (less any expired credits). Subtract line 2 from line 1. Amount should match Part II line 9(d) or Part II line 19(d).

Part II — Credit Use and Carryover Periods

Carryover the credit from prior year.

Part III — Credit Recapture

Any credit amounts previously claimed must be added back to your tax liability if any of the events listed below have occurred within one year of the date the qualified property was placed in service in California. The recapture codes listed to the left of each event that caused recapture of the MIC should be used to complete Part III, line 1, column (b), for each item of qualified property for which the credit must be recaptured.

Recapture Code	Event Causing Recapture
1	Qualified property is physically moved out of California.
2	Qualified property is primarily used in a non-qualified activity.
3	Qualified property is sold or otherwise transferred to an unrelated party as defined in IRC Sections 267, 318, or 707.
4	Qualified leased property is acquired by the lessee-user (or party related to the lessee-user) who claimed the MIC for such leased property prior to acquiring the property.

If the recapture event occurs in the same taxable year in which the qualified property is first placed in service, then no MIC should be claimed for that property.

For taxable years beginning on or after January 1, 2002, taxpayers making the federal election to treat a stock purchase as an asset purchase under IRC Sections 338(g) or 338(h)(10) will not trigger a recapture of the MIC.

Line 1, column (a) – List each item of property that caused recapture.

Line 1, column (b) – Enter the recapture reason code from the list above that corresponds to the event that caused recapture of the MIC.

Line 1, column (c) – Enter the amount of recapture for each item of property entered in column (a).

Any MIC carryover should first be reduced to the full extent before adding any recaptured credit to the current year tax liability. Any recapture amount remaining after the reduction of the carryover should be added to tax and reported here, Part III, line 1, column (c). See the instructions for line 2 below for where to report the recapture amounts on your California tax return. Also see the example in General Information C, Credit Recapture.

Line 2, column (c) – Add the amounts in column (c). Enter the total here and on your California tax return or schedule as follows:

- Form 100, Schedule J, line 5;
- Form 100S, Schedule J, line 5 and Schedule K-1 (100S), line 23. See note below;
- Form 100W, Schedule J, line 5;
- Form 109, Schedule K, line 4;
- Form 540, line 36;
- Form 540NR, line 45;
- Form 541, line 21b and Schedule K-1 (541), line 11e;
- Schedule K (565), line 22 and Schedule K-1 (565), line 22; or
- Schedule K (568), line 22 and Schedule K-1 (568), line 22.

Indicate that you included the MIC recapture on the tax return by writing “FTB 3535” in the space to the left of the amount on the schedule or form.

Shareholders, beneficiaries, partners, and members of S corporations, estates, trusts, or partnerships must recapture the portion of the credit that was previously claimed. S corporations, estates, trusts, and partnerships must show the recapture amount for each shareholder, beneficiary, partner, or member on Schedules K-1 (100S, 541, 565, or 568) as provided above.

Note: For an S corporation, the recapture amount for the shareholder(s) will differ from the amount recaptured by the S corporation on Form 100S, Schedule J, line 5, since S corporations can only claim 1/3 of the credit.

Where to Get Tax Forms and Publications

By Internet – You can download, view, and print California tax forms and publications from our Website at www.ftb.ca.gov.

Information about other state agencies can be accessed through the State Agency Index located on the California State Website at www.ca.gov

By phone – To order California tax forms, publications, and the individual current year federal booklets, call our automated telephone service. To order a form:

- Refer to the list in your tax booklet and find the code number for the form you want to order.
- Call (800) 338-0505 and follow the instructions.

Please allow two weeks to receive your order. If you live outside California, please allow three weeks to receive your order.

In person – Many post offices provide free California tax booklets during the filing season. Most libraries and some quick print businesses have forms and schedules for you to photocopy (a nominal fee may apply). Note that employees at post offices, libraries, and quick print businesses cannot provide tax information or assistance.

By mail – Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307